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Schuyler, Louisa Lee

Charities article of the revised constitution...

New York

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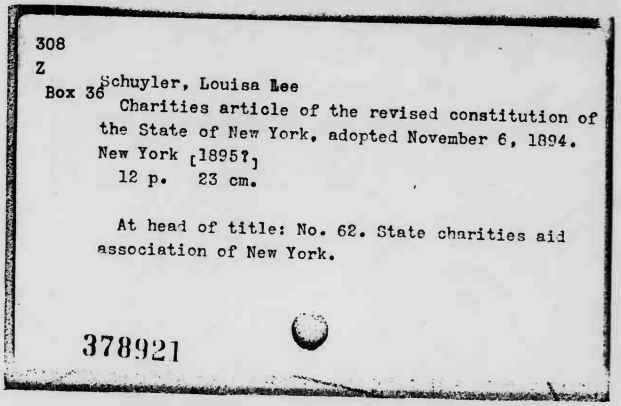

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New York [1895?]
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No. 62.

State Charities Aid Association

OF NEW YORK.

Louisa Lee Schuyler

Charities Article

OF THE

REVISED CONSTITUTION

OF THE

STATE OF NEW YORK

ADOPTED NOVEMBER 6, 1894

NEW YORK
UNITED CHARITIES BUILDING,
105 East 22d Street.

THE CHARITIES ARTICLE

OF THE

REVISED STATE CONSTITUTION

ADOPTED NOVEMBER 6, 1894

The adoption of the Revised Constitution of the State of New York may well be regarded as the most far-reaching, if not the most important of the reforms accomplished by the recent elections, of November 6, 1894. Through the long, hot summer, the delegates of the Constitutional Convention, assembled in Albany, comprising many of the ablest lawyers of the State, were engaged in collecting information, sifting evidence and seeking to solve the many problems brought before them from every part of the State. Only those who have closely watched the conscientious, faithful work of the leading members of that body know the difficulties which confronted them, and can estimate, at their true value, the results accomplished.

The Constitutional Amendments, taken as a whole, represent the conservative reform views of the best students of our day on matters concerning the judiciary, and legislative and executive departments of our State government, and show a decided advance in public opinion towards higher, purer forms of administration. Their condemnation of bribery, corruption and gambling; their protection of the educational and charitable interests of the State; their severance of State and municipal elections, as one of many beacon lights held out to encourage municipal reform; their watchful care of the ballot-box; their provisions for more speedy justice in the courts; all these, with many others of the amendments recently adopted by the people, by the large plurality of 83,295, give hope and promise

NOTE.—This paper, by Miss Louisa Lee Schuyler, is reprinted from the twenty-second annual report of the State Charities Aid Association to the State Board of Charities, December 1, 1894.

to all who love our republican form of government, and delight to watch the realization of its high ideals.

That the State Charities Aid Association should have been called upon to take part in the formation of one of the new articles of the Constitution, will always be regarded by us as a high honor and great privilege. This possibility was not contemplated when midsummer brought with it the usual vacation season, and was undoubtedly due to the circumstance that, early in the session of the Constitutional Convention, one of our recent publications, entitled: "The Support of Children at Public Expense in Private Institutions in New York City," with its supplemental "Table of Statutes," had been sent to the officers, and members of the Committee on Charities of the Convention. This publication attracted much attention, owing to its clear statement of facts, its valuable statistical information, and the absence of partisan bias which characterized it during the then raging sectarian controversy.* It was not, however, until the middle of July that we received a request from the Hon. Edward Lauterbach, Chairman of the Committee on Charities, that we should prepare, to be submitted by him to his Committee, any amendment we might wish to see incorporated in the Constitution of the State. Gladly and promptly we responded to this request.

For many years it had been our desire to see established a comprehensive system of State supervision for all the charitable, eleemosynary, reformatory and correctional institutions in the State. The Legislature had already accomplished this, in part, by the creation of the State Board of Charities and the State Commission in Lunacy. But neither of these official bodies had the right to visit the 10,000 inmates of the prisons, jails and penitentiaries, which were without State supervisory inspection of any kind. On the other hand, the State Board of Charities, charged with the duty of visiting over 62,000 inmates of charitable institutions, was also required by law to inspect the 18,000 inmates of insane asylums, thus duplicating the work of another State body, the State Commission in Lunacy, which had been established for

* This publication was prepared by the Secretary, with the assistance of one or two members of the Association.

this express purpose. To substitute for these tangled conditions, of omission and duplication of work, a simple, comprehensive system of State supervision, which should cover all the institutions of the State; should classify them into their natural divisions of charity, lunacy and correction; should provide for each division a State official body, responsible solely for the thorough inspection of the institutions of its own division, seemed to us a much-needed reform, one worthy of consideration by the Convention.

An amendment to the Constitution, covering these points, was accordingly prepared, with the full concurrence and approval of the President of our sister volunteer society, the New York Prison Association, and taken to Mr. Lauterbach, in Albany. He at once presented it to his Committee, stating that it was prepared by the Association at his request, and a public hearing was ordered for the following week, at which all persons interested in the proposed amendment for the creation, by the Constitution, of a State Commission for Prisons, a State Commission in Lunacy and a State Board of Charities were invited to be present. The opening argument, delivered by the Secretary of the Association at this hearing, July 24th, before a joint meeting of the Committee on Charities and Charitable Institutions and the Committee on Prisons, of the Convention, is herewith appended.

It is not here proposed to enter upon the details of the history of this amendment, from that time until its final adoption by the Convention, on the 15th day of September, 1894, by a vote of 114 to 17. Suffice it to say that the original text went through many changes, so many, at one time, as not to be recognizable either in shape or substance as our proposed amendment. Finally it was reported in its original form and language, and so adopted. For two months the Secretary of the Association was obliged to remain in Albany, for the purpose of making clear to others what had seemed to us such a simple proposition.*

* As this paper was written to form part of the twenty-second annual report of the State Charities Aid Association, receiving the official signature of the Secretary, it was not possible for me to speak, in the body of the paper, as I wished, of the efficient and valuable services rendered by our Secretary, Mr. Homer Folks, in connection with this amendment.—L. L. S.

It is needless to say that we had been careful to provide that the amendment should legislate no one out of office, and that existing law should be continued as far as possible. Indeed, the only divergencies from existing law, beyond giving constitutional instead of legislative recognition to the State Board of Charities and State Commission in Lunacy, were: (1.) The creation of a State Commission for Prisons, thus providing State inspection, by an official Board, for prisons, jails and penitentiaries, until now without any such supervision. (The Superintendent of State Prisons, being an executive officer, is, naturally, not in a position to pass judgment on his own administration.) (2.) The withdrawal from the State Board of Charities of the duty of inspecting insane asylums, this being a duplication of the work of the State Commission in Lunacy. (3.) The placing of all the idiot asylums of the State under the supervision of the State Board of Charities, one of these being now under that of the Commission in Lunacy. (4.) Giving the Governor power, not heretofore possessed, of removing any member of the Board or Commissions, for cause, an opportunity having first been given him to be heard in his defense.

As to the vexed questions which arose concerning the division of the field, *i. e.*, whether reformatories should be classified as under the Commission for Prisons or the State Board of Charities, whether idiot asylums should be under the Lunacy Commission or the Charities Board, whether insane criminals should belong to the Prison Commission or the Lunacy Commission, the Association took the position that, as philanthropists and physicians held honest differences of opinion upon these subjects, it was best to leave these institutions as nearly as possible under existing supervision. And this, with the one exception of placing reformatories for male adults convicted of felony under the new Commission for Prisons, was ultimately agreed upon.

Before the amendment was finally reported to the Convention a very important section was added to the original amendment, for which the Association is not responsible although fully in accord with its general spirit and purpose. This is designed to prevent the appropriation of public funds for sectarian education in charitable and correctional institutions; and also to

regulate the payment of public funds to private charitable and correctional institutions, by obliging inmates supported by public funds in any such institution to be received and retained therein pursuant to rules established by the State Board of Charities, such rules to be subject to the control of the Legislature by general laws. It also prohibits the Legislature from *requiring* (although it may authorize), the authorities of any county, city, town or village to make payments to any private charitable or correctional institutions.

Another addition to the amendment, not of our seeking, but especially gratifying to us, as showing the watchful care of the interests of the Association by its friends in the Convention, states that: "the visitation and inspection herein provided for (*i. e.*, of the State Board of Charities, the State Commission in Lunacy and the State Commission for Prisons), shall not be exclusive of other visitation and inspection now authorized by law," this being designed to protect the New York Prison Association and the State Charities Aid Association in their rights of visitation and inspection, should these be threatened in the future by any possible construction of the Constitution "by inference."

And here we would express our thanks to the President of the Convention, Hon. Joseph H. Choate, and to Messrs. Edward Lauterbach, Elihu Root, Milo M. Acker, John Bigelow, Frederick W. Holls and other delegates, for their hearty support of the proposed amendment, and for the invariable courtesy extended by them to the representatives of the Association, both in Albany and elsewhere. To the Hon. Edward Lauterbach, Chairman of the Committee on Charities, we are especially indebted for much kind consideration, as also for his generous acknowledgment, in his report to the Convention, of the assistance which it gave us so much pleasure to be able to render. We quote from this report: "The proposed amendment submitted by your Committee results in part from conferences with the representatives of the State Charities Aid Association and the Prison Association of New York, whose vast experience in all matters connected with State charities and the management of State prisons has been placed at the service of the Committee, which has had the benefit of many important suggestions from the officers of these associations."

Following is the full text of the amendment, which now forms Sections 11–15 of Article VIII. of the State Constitution, and was known as "the Charities Article" during the debates in Convention:

THE CHARITIES ARTICLE.

(The amendment as proposed by the State Charities Aid Association is in plain type; additions made by Committee in *Italics.*)

Article VIII. of the Constitution. SECTION 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, *but including all reformatories except those in which adult males convicted of felony shall be confined;* a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons, which shall visit and inspect all institutions* used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

SECTION 12. The members of the said board and of the said commissions shall be appointed by the Governor by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

SECTION 13. Existing laws relating to institutions referred to in the foregoing sections, and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. *The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.*

* The amendment proposed by the Association contained the words "(except reformatories)" after "institutions." These words were omitted by the Committee.

SECTION 14. *Nothing in this Constitution contained shall prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb and juvenile delinquents, as to it may seem proper, or prevent any county, city, town or village from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the State Board of Charities. Such rules shall be subject to the control of the Legislature by general laws.*

SECTION 15. Commissioners of the State Board of Charities and Commissioners of the State Commission in Lunacy, now holding office, shall be continued in office for the term for which they were appointed, respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the Commissions and upon the Board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

Should it be asked, why is it necessary to incorporate in the Constitution of the State what might equally well have been provided by the Legislature, the answer is not far to seek. For the past twenty-five years the growth, in numbers and wealth, of the public and private charitable institutions in this State, has been enormous. The estimated value of their lands, buildings and appurtenances, October 1, 1893, was $84,154,392.37; the total amount of money expended by them in that same year was $20,407,982.94.* These institutions are very powerful. No State supervisory body, dependent solely upon the Legislature for its existence, could fearlessly perform the duties re-

* Report of the State Board of Charities, for 1893.

quired of it by law without danger of being abolished. Our amendment protects it from this danger. And yet, as the power granted by the Constitution to these Supervisory Boards is that of inspection alone, leaving with the Legislature the right to confer additional powers, and to determine all details of organization and membership, no undue autocratic authority need be feared by the institutions.

Students of English history will remember the long struggle, of sixty years ago, over the existence of the Poor Law Board, which had made for itself enemies by attempting to check the excessive grants of out-door relief; this, after a Royal Commission, at the close of a searching investigation, had declared that "out-door relief was pauperizing the nation." For years the battle raged between the reformers and the advocates of the old system until, finally, to preserve the Poor Law Board, it became necessary to reorganize it under the title of the "Local Government Board," and to give its President a seat in the Cabinet.

Not to any powerful political influence does our system of State supervision owe its existence. Incorporated in the Constitution of the State of New York, it stands secure, able to pursue, unmolested, its high mission of guarding the interests of the sick, the afflicted and the prisoner; representing, as never before to-day, in that People's Charter of our rights and privileges, those attributes of love and mercy which are no less sacred than the great principles of liberty and justice.

LOUISA LEE SCHUYLER.

NEW YORK, November 17, 1894.

APPENDIX.

ARGUMENT.

Before a joint meeting of the Committee on Charities and Charitable Institutions and the Committee on Prisons, of the Constitutional Convention, July 24th, 1894, by Homer Folks, Secretary of the State Charities Aid Association.

The necessity for the supervision and inspection by State authorities of charitable and correctional institutions has been recognized by the Legislature of the State of New York since the year 1867. In that year it established the "Board of State Commissioners of Public Charities," which was authorized and required to visit at least once each year all the charitable and correctional institutions of the State, excepting prisons, receiving State aid, and to visit at least once every two years city and county alms and poorhouses. (Sections 5 and 6 of Chapter 951, Laws of 1867.)

Six years later, in 1873, the field to be covered by this Board, whose name was then changed to the "State Board of Charities," was extended so as to include charitable institutions not receiving State aid. By Chapter 371, Laws of 1873, they are authorized to visit and inspect "any charitable, eleemosynary, correctional or reformatory institution in this State, excepting prisons, whether receiving State aid, or maintained by municipalities or otherwise."

In the same year, 1873, recognizing the need of still greater supervision over institutions for the insane, the Legislature established a Commissioner in Lunacy, a single officer, whose duties were to visit and supervise all institutions for the insane. This Commissioner in Lunacy was at first *ex-officio* a member of the State Board of Charities, and reported thereto, but in 1874 was separated from the Board and directed to report to the Legislature. Ultimately this supervision was found to be inadequate, and in 1889 a State Commission in Lunacy, consisting of three persons, was substituted by the Legislature for the single Commissioner.

The Legislature has also recognized the value of unofficial, local, volunteer visitation, and has authorized the Prison Association of the State of New York to visit prisons and jails, and the State Charities Aid Association to visit State and county

charitable institutions, including asylums for the insane; the former reporting annually to the Legislature, and the latter to the State Board of Charities and to the State Commission in Lunacy.

Dismissing from consideration the visitation by volunteer Associations, which we mention only to bring the whole field into view, we are convinced that supervision by official Boards, which has been exercised for the past twenty-seven years and whose field has been extended as its usefulness has been demonstrated, should now be given the dignity and permanency of recognition in the State Constitution. * * * State prisons, county penitentiaries and jails are not at present subject to visitation and supervision by any official Board. The institutions for the insane are, on the other hand, subject to visitation and inspection by two official Boards, the State Commission in Lunacy and the State Board of Charities. All other charitable institutions are subject to visitation and inspection by one official Board, the State Board of Charities.

We believe that the best welfare of the inmates of all these institutions, and the most effective supervision, will be secured by accepting the natural division of the field into correction, lunacy and charity, and by placing a supervisory State Board over each of these departments.

At the present time the State Board of Charities exercises supervision over institutions whose expenditures during the year ending October 1, 1893, amounted to $20,407,982, and which contained October 1, 1893, a total of 80,543 inmates. If now to these there should be added the inmates of prisons, penitentiaries and jails, the total number would be increased to more than 90,000. Then, too, we must remember that before the next Constitutional Convention meets, should it be held twenty years hence, this number will probably be increased at least fifty per cent. We are convinced that it is impossible for any one Board to do effective work in the whole of so large a field.

The proposed amendment, therefore, creates a State Commission of Prisons, to exercise supervision and inspection of all prisons, penitentiaries, jails and all institutions, except reformatories, used for the detention of adults charged with or convicted of crime. The Superintendent of State Prisons has, by the existing State constitution, duties that are solely executive. He appoints the agents, wardens, chaplains and physicians, and has the management and control of State prisons. It seems eminently proper that there should be some board to inspect State prisons, county penitentiaries, county jails, lock-ups and all other institutions for adult criminals. The number of inmates of the institutions which would be subject to the supervision of such a Commission of Prisons is about 10,000.

That the deplorable condition of county jails, which has been so often described in the reports of our sister society, the Prison Association, proves the need of some State supervision and inspection, will, we think, be admitted by all. It seems proper, however, that the inmates of juvenile reformatories, many of whom are mere children, should not be classed with criminals nor subjected to the taint of crime which would inevitably attach to any institution under the supervision of a Commission of Prisons. Reformatories are for this reason placed as at present, under the supervision of the State Board of Charities.

The State Commission in Lunacy is given as by existing law supervision over all institutions, public and private, for the care of the insane. These include at present nine State hospitals, six county asylums and seventeen private asylums, containing a total of 18,154 inmates on January 1, 1894. This division, which seems to us a proper one, covers the field now placed under the supervision of the State Commission in Lunacy by general laws.

The proposed amendment places under the supervision of the State Board of Charities as by existing law the following twenty-three institutions maintained by the State: Reformatories, 7; institutions for the deaf, 8; for the blind, 2; for epileptics, 1; for idiots, 3; for Indian children, 1; for soldiers and sailors, 1. There are also under its supervision the following institutions: County poorhouses, 58; city almshouses, 5; town poorhouses, 4; orphan asylums and Homes for the Friendless, 241; hospitals, 112; dispensaries, 45; the total population of these institutions being October 1, 1893, 62,164. There would also be under its supervision a large number of charitable and benevolent societies not included in the above. This division of the field relieves the State Board of Charities of all responsibility in connection with institutions for the insane. The present supervision of these institutions by the State Board of Charities seems to us an unnecessary duplication of the work of another State Board. We believe, also, that in regard to State charitable institutions and county poorhouses, the State Board of Charities should be granted additional powers by the Legislature.

There is a decided difference of opinion as to which is more effective as a supervisory body, a paid board or an unpaid board. Into this question we need not enter, except to call attention to the fact that the proposed amendment does not prescribe (and it does not seem to us that the Constitution should prescribe) either form of organization for any of the three boards. We believe that this should be left wholly to the Legislature, to be adjusted as the logic of events may prove wise. For the present both boards would remain as now constituted. If it should be desirable at any time to reorganize the Commis-

sion in Lunacy as an unpaid board, this amendment would offer no obstacle. If it should be desirable at any time to reorganize the State Board of Charities as a paid body, it would be equally possible to do so. The Commission of Prisons can be organized by the Legislature, either as a paid or an unpaid body.

The proposed amendment simply makes applicable to the State Commission in Lunacy and to the State Board of Charities created by this amendment the laws relating to the present boards, respectively (providing also that all such laws shall be subject to amendment or repeal), and continues in office their present membership, subject to control by the Legislature.

It should be noted that the proposed amendment does not prescribe the number, salary or term of office of the members of any of the boards, nor does it prescribe specifically their duties, except that they shall be those of supervision and inspection. All matters pertaining to the organization of the boards and their specific duties should, we think, be left to the Legislature.

The proposed amendment simply establishes the principle of State supervision of charitable, eleemosynary, correctional and reformatory institutions; divides the field into its three natural divisions; and establishes for each division a supervisory State Board.

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